

AMENDED IN ASSEMBLY JUNE 4, 2003

AMENDED IN ASSEMBLY MAY 1, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 923

Introduced by Assembly Members Firebaugh, Chavez, and

Wesson

(Coauthors: Assembly Members *Bermudez, Calderon, Chu, Corbett, Diaz, Dymally, Goldberg, Hancock, Jerome Horton, Koretz, Laird, Leno, Lieber, Longville, Lowenthal, Montanez, Nunez, Oropeza, Reyes, Ridley-Thomas, and Steinberg*)
Steinberg, and Vargas)

(Coauthor: Senator Romero)

(Coauthors: Senators *Alarcon, Romero, and Soto*)

February 20, 2003

An act to amend Section 6353 of, to add Sections 6356.8, 6356.9, 7105, 17053.15, and 23608.15 to, *to add and repeal Section 6356.7 of*, and to repeal Sections 6356.5, 6356.6, 6357.1, and 6358.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 923, as amended, Firebaugh. State taxes: health care.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including exemptions for farm equipment

and machinery, timber harvesting equipment, racehorse breeding stock, diesel fuel used in farming, and liquefied petroleum gas for use in producing and harvesting agricultural products.

This bill would repeal those exemptions.

This bill would provide an exemption from that tax for farm equipment and machinery purchased for use by a small farmer, as defined, to be used primarily in producing and harvesting agricultural products.

This bill would provide an exemption from that tax for a small farmer for diesel fuel used in farming activities, as defined.

This bill would also provide an exemption from that tax for any farm tractors purchased for use by a farmer to be used primarily in producing and harvesting agricultural products.

The Personal Income Tax Law and the Corporation Tax Law authorizes various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2004, for qualified taxpayers who provide health care coverage for their agricultural employees. This bill would require that the aggregate amount of credits allocated to all taxpayers for each taxable year, *as specified*, equal the sum of the estimated amount of the increase for that same taxable year in sales and use tax revenue due to the repeal by this bill of sales and use tax exemptions and the amount of specified costs to administer the credit. This bill would provide that each qualified taxpayer receive a credit equal to the taxpayer's pro rata share of the aggregate amount, based upon the amount of health care coverage costs paid or incurred by the taxpayer. This bill would authorize the Employment Development Department to charge qualified taxpayers applying for the credit a fee for the department's costs incurred in administering the credit.

The bill would impose various duties on the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department in administering the bill, as provided.

This bill would take effect immediately as a tax levy, but specified provisions would become operative on January 1, 2004.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 6353 of the Revenue and Taxation Code is amended to read:

6353. There are exempted from the taxes imposed by this part the gross receipts derived from the sales, furnishing, or service of and the storage, use, or other consumption in this state of, all of the following:

(a) Gas, electricity, and water, including steam and geothermal steam, brines, and heat, when delivered to consumers through mains, lines, or pipes.

(b) (1) Liquefied petroleum gas, delivered to a qualified residence by the seller, that is sold for household use in the qualified residence, provided the liquefied petroleum gas is delivered into a tank with a storage capacity for liquefied petroleum gas that is equal to or greater than 30 gallons. This subdivision may not be construed to provide any exemption from any tax levied by a city, county, or city and county pursuant to Section 7284.3, or any successor to that section.

(2) For purposes of this subdivision, “qualified residence” means a primary residence, not serviced by gas mains and pipes.

(c) Water, when sold to an individual in bulk quantities of 50 gallons or more, for general household use in his or her residence if the residence is located in an area not serviced by mains, lines or pipes.

(d) Exhaust steam, waste steam, heat, or resultant energy, produced in connection with cogeneration technology, as defined in Section 25134 of the Public Resources Code.

SEC. 2. Section 6356.5 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 6356.6 of the Revenue and Taxation Code is repealed.

SEC. 4. *Section 6356.7 is added to the Revenue and Taxation Code, to read:*

6356.7. (a) *There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, any farm tractors purchased for use by a farmer to be used primarily in producing and harvesting agricultural products.*

(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(c) This section shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 4.3. Section 6356.8 is added to the Revenue and Taxation Code, to read:

6356.8. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, farm equipment and machinery, and the parts thereof, purchased for use by a small farmer to be used primarily in producing and harvesting agricultural products.

(b) For purposes of this section:

(1) "Small farmer" means a farmer whose gross receipts from the sale of agricultural products are less than two hundred fifty thousand dollars (\$250,000) during the calendar year preceding the calendar year for which a credit is claimed under this section.

(2) "Farm equipment and machinery" means implements of husbandry, as defined in Section 411.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

1 SEC. 4.5. Section 6356.9 is added to the Revenue and
2 Taxation Code, to read:

3 6356.9. (a) There are exempted from the taxes imposed by
4 this part, the gross receipts from the sale in this state to a small
5 farmer of, and the storage, use, or other consumption in this state
6 by a small farmer of, diesel fuel used in farming activities.

7 (b) For purposes of this section:

8 (1) "Small farmer" means a farmer whose gross receipts from
9 the sale of agricultural products are less than two hundred fifty
10 thousand dollars (\$250,000) during the calendar year preceding
11 the calendar year for which a credit is claimed under this section.

12 (2) "Farming activities" has the same meaning as "farming
13 business" as set forth in Section 263A of the Internal Revenue
14 Code. "Farming activities" also includes the transportation and
15 delivery of farm products to the marketplace.

16 (c) (1) Notwithstanding any provision of the Bradley-Burns
17 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with
18 Section 7200)) or the Transactions and Use Tax Law (Part 1.6
19 (commencing with Section 7251)), the exemption established by
20 this section does not apply with respect to any tax levied by a
21 county, city, or district pursuant to, or in accordance with, either
22 of those laws.

23 (2) Notwithstanding subdivision (a), the exemption established
24 by this section does not apply with respect to any tax levied
25 pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35
26 of Article XIII of the California Constitution.

27 SEC. 4.7. Section 6357.1 of the Revenue and Taxation Code
28 is repealed.

29 SEC. 5. Section 6358.5 of the Revenue and Taxation Code is
30 repealed.

31 SEC. 6. Section 7105 is added to the Revenue and Taxation
32 Code, to read:

33 7105. The State Board of Equalization, in consultation with
34 the Department of Finance, shall estimate the annual increase in
35 the amount of sales and use tax revenue that is attributable in 2004
36 and each year thereafter to the repeal of the sales and use tax
37 exemptions by the act adding this section. The board shall provide
38 the estimate to the Employment Development Department on or
39 before January 15 of the year next following the year for which the
40 estimate is made.

1 SEC. 7. Section 17053.15 is added to the Revenue and
2 Taxation Code, to read:

3 17053.15. (a) For each taxable year beginning on or after
4 January 1, 2004, there shall be allowed as a credit against the “net
5 tax,” as defined in Section 17039, to a qualified taxpayer who
6 provides qualified health care coverage to his or her agricultural
7 employees.

8 (b) The amount of the credit allowed to a qualified taxpayer
9 under subdivision (a) *for a taxable year* shall be an amount
10 allocated to that taxpayer by the Employment Development
11 Department pursuant to subdivision (d) *for the calendar year in*
12 *which the taxable year begins*.

13 (c) For purposes of this section:

14 (1) “Agricultural employee” means an employee as defined in
15 subdivision (b) of Section 1140.4 of the Labor Code.

16 (2) “Qualified health care coverage” means health care
17 coverage equivalent to a health care service plan under the
18 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
19 (commencing with Section 1340) of Division 2 of the Health and
20 Safety Code), or to a plan that would qualify under the Employee
21 Retirement Income Security Act of 1974 (P.L. 93-406), as
22 amended, and provides substantially the same minimum benefits
23 as required under the Knox-Keene Health Care Service Plan Act
24 of 1975.

25 (3) “Qualified taxpayer” means a taxpayer who either
26 employs agricultural employees directly or is a labor contractor
27 that employs agricultural employees for use by farmers, who does
28 both of the following:

29 ~~(A) Provides those employees with qualified health care~~
30 ~~coverage in an amount equal to at least 80 percent of the cost of that~~
31 ~~coverage.~~

32 ~~(B) Applies to the Employment Development Department, in~~
33 ~~the form and manner prescribed by the department, pursuant to~~
34 ~~subdivision (d) for the credit allowed pursuant to this section. A~~
35 ~~qualified taxpayer will be eligible for the credit for a taxable year~~
36 ~~only if a completed application for that taxable year is filed with~~
37 ~~the Employment Development Department on or before the~~
38 ~~January 31 next following the taxable year for which the credit is~~
39 ~~claimed.~~

1 ~~(d) The Employment Development Department shall do all of~~
2 ~~the following:~~

3 ~~(1) Allocate an aggregate amount of tax credits to all qualified~~
4 ~~taxpayers under this section and Section 23608.15 for each taxable~~
5 ~~year beginning on or after January 1, 2004, in an amount equal to~~
6 ~~the sum of the estimated amount of the increase of sales and use~~
7 ~~tax revenue provided to the Employment Development~~
8 ~~Department pursuant to Section 7105 for the calendar year that~~
9 ~~coincides with or ends within the taxable year and the amount of~~
10 ~~the department's costs to administer this section.~~

11 ~~(2) For each taxable year, allocate to each qualified taxpayer a~~
12 ~~credit amount computed as follows:~~

13 ~~(A) Divide the total amount paid or incurred during the taxable~~
14 ~~year by a qualified taxpayer for qualified health care coverage for~~
15 ~~the agricultural employee and the employee's dependents by the~~
16 ~~sum of all the amounts so paid or incurred by all qualified~~
17 ~~taxpayers during the taxable year for qualified health care~~
18 ~~coverage.~~

19 ~~(B) Multiply the total amount to be allocated for the taxable~~
20 ~~year pursuant to paragraph (1) by the number calculated under~~
21 ~~subparagraph (A) and round the result to the nearest dollar.~~

22 ~~(C) Allocate to the taxpayer a credit in an amount equal to the~~
23 ~~amount calculated under subparagraph (B).~~

24 ~~(3) Provide written notification to each qualified taxpayer of~~
25 ~~his or her credit amount by February 28 of the next following~~
26 ~~taxable year for which the credit is claimed.~~

27 ~~(4) Provide an annual list to the Franchise Tax Board,~~
28 ~~preferably on computer readable form, and in the form and manner~~
29 ~~agreed upon by the Franchise Tax Board and the Employment~~
30 ~~Development Department, of qualified taxpayers and amount of~~
31 ~~credit allocated to each.~~

32 ~~(5) Notify all known qualified taxpayers regarding the~~
33 ~~availability of the credit.~~

34 ~~(6) Send each known qualified taxpayer an application to~~

35 ~~(A) Pays or incurs at least 80 percent of the cost of qualified~~
36 ~~health care coverage for those employees.~~

37 ~~(B) Applies to the Employment Development Department, in~~
38 ~~the form and manner prescribed by that department, pursuant to~~
39 ~~subdivision (d) for the credit allowed pursuant to this section. A~~
40 ~~qualified taxpayer will be eligible for the credit for a taxable year~~

1 only if a completed application for the calendar year is filed with
2 the Employment Development Department on or before the
3 January 31 following the end of the calendar year for which the
4 credit is allocated.

5 (d) The Employment Development Department shall do all of
6 the following:

7 (1) Allocate an aggregate amount of tax credits to all qualified
8 taxpayers under this section and Section 23608.15 for each
9 calendar year beginning on or after January 1, 2004, in an amount
10 equal to the sum of the estimated amount of the increase of sales
11 and use tax revenue provided to the Employment Development
12 Department pursuant to Section 7105 for the calendar year and the
13 amount of that department's costs to administer this section.

14 (2) For each calendar year, allocate to each qualified taxpayer
15 a credit amount computed as follows:

16 (A) Divide the total amount paid or incurred during the
17 calendar year by a qualified taxpayer for qualified health care
18 coverage for the agricultural employee and the employee's
19 dependents by the sum of all the amounts so paid or incurred by
20 all qualified taxpayers during the calendar year for qualified
21 health care coverage.

22 (B) Multiply the total amount to be allocated for the calendar
23 year pursuant to paragraph (1) by the number calculated under
24 subparagraph (A) and round the result to the nearest dollar.

25 (C) Allocate to the taxpayer a credit in an amount equal to the
26 amount calculated under subparagraph (B).

27 (3) Provide written notification to each qualified taxpayer of
28 his or her credit amount by February 28 following the end of the
29 calendar year for which the credit is allocated.

30 (4) Provide an annual list to the Franchise Tax Board,
31 preferably on computer readable form, and in the form and manner
32 agreed upon by the Franchise Tax Board and the Employment
33 Development Department, of qualified taxpayers and amount of
34 credit allocated to each.

35 (5) Notify all known employers of agricultural employees
36 regarding the availability of the credit.

37 (6) Send each known employer of agricultural employees an
38 application to participate in the credit allocation for each taxable
39 year to which this section applies.

(7) Promulgate rules or regulations as deemed necessary to implement its duties under this section.

(e) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and the succeeding five years if necessary, until the credit is exhausted.

(f) Any taxpayer that willfully fails to supply any information under this section with the intent to evade any tax imposed by this part, or who, willfully and with like intent, makes, renders, signs, or verifies any false statement or application under this section or supplies any false or fraudulent information under this section, is punishable as provided by Section 19706, except that the fine imposed may be up to treble the amount specified by Section 19706.

(g) The Employment Development Department may charge each qualified taxpayer applying for the credit a fee toward ~~the~~ *that* department’s costs of administering the credit.

(h) The Franchise Tax Board, with the cooperation of the Employment Development Department, shall report annually to the Legislature regarding the utilization of the tax credits under this section.

SEC. 8. Section 23608.15 is added to the Revenue and Taxation Code, to read:

23608.15. (a) For each taxable year beginning on or after January 1, 2004, there shall be allowed as a credit against the “tax,” as defined in Section 23036, to a qualified taxpayer who provides qualified health care coverage to its agricultural employees.

(b) The amount of the credit allowed to a qualified taxpayer under subdivision (a) *for a taxable year* shall be an amount allocated to that taxpayer by the Employment Development Department pursuant to subdivision (d) *for the calendar year in which the taxable year begins*.

(c) For purposes of this section:

(1) “Agricultural employee” means an employee as defined in subdivision (b) of Section 1140.4 of the Labor Code.

(2) “Qualified health care coverage” means health care coverage equivalent to a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and

1 Safety Code), or to a plan that would qualify under the Employee
2 Retirement Income Security Act of 1974 (P.L. 93-406), as
3 amended, and provides substantially the same minimum benefits
4 as required under the Knox-Keene Health Care Service Plan Act
5 of 1975.

6 (3) “Qualified taxpayer” means a taxpayer who either
7 employs agricultural employees directly or is a labor contractor
8 that employs agricultural employees for use by farmers, who does
9 both of the following:

10 ~~(A) Provides those employees with qualified health care~~
11 ~~coverage in an amount equal to at least 80 percent of the cost of that~~
12 ~~coverage.~~

13 ~~(B) Applies to the Employment Development Department, in~~
14 ~~the form and manner prescribed by the department, pursuant to~~
15 ~~subdivision (d) for the credit allowed pursuant to this section. A~~
16 ~~qualified taxpayer will be eligible for the credit for a taxable year~~
17 ~~only if a completed application for that taxable year is filed with~~
18 ~~the Employment Development Department on or before the~~
19 ~~January 31 next following the taxable year for which the credit is~~
20 ~~claimed.~~

21 ~~(d) The Employment Development Department shall do all of~~
22 ~~the following:~~

23 ~~(1) Allocate an aggregate amount of tax credits to all qualified~~
24 ~~taxpayers under this section and Section 17053.15 for each taxable~~
25 ~~year beginning on or after January 1, 2004, in an amount equal to~~
26 ~~the sum of the estimated amount of the increase of sales and use~~
27 ~~tax revenue provided to the Employment Development~~
28 ~~Department pursuant to Section 7105 for the calendar year that~~
29 ~~coincides with or ends within the taxable year and the amount of~~
30 ~~the department’s costs to administer this section.~~

31 ~~(2) For each taxable year, allocate to each qualified taxpayer a~~
32 ~~credit amount computed as follows:~~

33 ~~(A) Divide the total amount paid or incurred during the taxable~~
34 ~~year by the qualified taxpayer for qualified health care coverage~~
35 ~~for the agricultural employee and the employee’s dependents by~~
36 ~~the sum of all the amounts so paid or incurred by all qualified~~
37 ~~taxpayers during the taxable year for qualified health care~~
38 ~~coverage.~~

~~(B) Multiply the total amount to be allocated for the taxable year pursuant to paragraph (1) by the number calculated under subparagraph (A) and round the result to the nearest dollar.~~

~~(C) Allocate to the taxpayer a credit in an amount equal to the amount calculated under subparagraph (B).~~

~~(3) Provide written notification to each qualified taxpayer of its credit amount by the February 28 next following the taxable year for which the credit is claimed.~~

~~(4) Provide an annual list to the Franchise Tax Board, preferably on computer readable form, and in the form and manner agreed upon by the Franchise Tax Board and the Employment Development Department, of qualified taxpayers and amount of credit allocated to each.~~

~~(5) Notify all known qualified taxpayers regarding the availability of the credit.~~

~~(6) Send each known qualified taxpayer an application to~~

~~(A) Pays or incurs at least 80 percent of the cost of qualified health care coverage for those employees.~~

~~(B) Applies to the Employment Development Department, in the form and manner prescribed by that department, pursuant to subdivision (d) for the credit allowed pursuant to this section. A qualified taxpayer will be eligible for the credit for a taxable year only if a completed application for the calendar year is filed with the Employment Development Department on or before the January 31 following the end of the calendar year for which the credit is allocated.~~

~~(d) The Employment Development Department shall do all of the following:~~

~~(1) Allocate an aggregate amount of tax credits to all qualified taxpayers under this section and Section 17053.15 for each calendar year beginning on or after January 1, 2004, in an amount equal to the sum of the estimated amount of the increase of sales and use tax revenue provided to the Employment Development Department pursuant to Section 7105 for the calendar year and the amount of that department's costs to administer this section.~~

~~(2) For each calendar year, allocate to each qualified taxpayer a credit amount computed as follows:~~

~~(A) Divide the total amount paid or incurred during the calendar year by a qualified taxpayer for qualified health care coverage for the agricultural employee and the employee's~~

1 *dependents by the sum of all the amounts so paid or incurred by*
2 *all qualified taxpayers during the calendar year for qualified*
3 *health care coverage.*

4 *(B) Multiply the total amount to be allocated for the calendar*
5 *year pursuant to paragraph (1) by the number calculated under*
6 *subparagraph (A) and round the result to the nearest dollar.*

7 *(C) Allocate to the taxpayer a credit in an amount equal to the*
8 *amount calculated under subparagraph (B).*

9 *(3) Provide written notification to each qualified taxpayer of*
10 *his or her credit amount by February 28 following the end of the*
11 *calendar year for which the credit is allocated.*

12 *(4) Provide an annual list to the Franchise Tax Board,*
13 *preferably on computer readable form, and in the form and manner*
14 *agreed upon by the Franchise Tax Board and the Employment*
15 *Development Department, of qualified taxpayers and amount of*
16 *credit allocated to each.*

17 *(5) Notify all known employers of agricultural employees*
18 *regarding the availability of the credit.*

19 *(6) Send each known employer of agricultural employees an*
20 *application to participate in the credit allocation for each taxable*
21 *year to which this section applies.*

22 *(7) Promulgate rules or regulations as deemed necessary to*
23 *implement its duties under this section.*

24 *(e) In the case where the credit allowed by this section exceeds*
25 *the “tax,” the excess may be carried over to reduce the “tax” in*
26 *the following year, and the succeeding five years if necessary, until*
27 *the credit is exhausted.*

28 *(f) Any taxpayer that willfully fails to supply any information*
29 *under this section with the intent to evade any tax imposed by this*
30 *part, or who, willfully and with like intent, makes, renders, signs,*
31 *or verifies any false statement or application under this section or*
32 *supplies any false or fraudulent information under this section, is*
33 *punishable as provided by Section 19706, except that the fine*
34 *imposed may be up to treble the amount specified by Section*
35 *19706.*

36 *(g) The Employment Development Department may charge*
37 *each qualified taxpayer applying for the credit a fee toward ~~the~~ that*
38 *department’s costs of administering the credit.*

39 *(h) The Franchise Tax Board, with the cooperation of the*
40 *Employment Development Department, shall report annually to*

1 the Legislature regarding the utilization of the tax credits under
2 this section.

3 SEC. 9. This act provides for a tax levy within the meaning of
4 Article IV of the Constitution and shall go into immediate effect.
5 However, Sections 1 to 5, inclusive, of this act shall become
6 operative on January 1, 2004.

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